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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STUART JACKSON,

Plaintiff,

-against-

11 Civ. 5826 (LAK)

NEW YORK COUNTY ASSISTANT DISTRICT
ATTORNEY SEEWALD, et al.,

Defendants.
----- x

ORDER

LEWIS A. KAPLAN, *District Judge.*

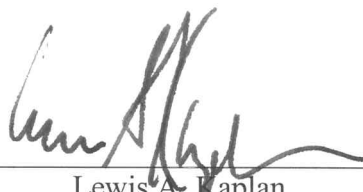
In a thorough report and recommendation, dated March 14, 2012 (the "R&R"), Magistrate Judge James C. Francis, IV, recommended that the motions of the Blitzer defendants (DI 20) and Mr. Stavis (DI 16) be granted, that plaintiff be denied leave to amend his Section 1983 claims but granted leave to amend his state law malicious prosecution claim against the Private Defendants. Plaintiff objects in various respects to aspects of the R&R that dismissal of certain claims but not as to the proposed disposition with respect to leave to amend.

The Court finds no material error of law or fact. In addition, it notes that plaintiff's claim, to the extent that it rests on assertions of false grand jury testimony and conspiracy to present such testimony, almost surely has been rendered untenable by *Rehberg v. Paulk*, 132 S.Ct. 1497 (2012).

Accordingly, the motions of the Blitzers and Mr. Stavis to dismiss the complaint (DI 16, 20) are granted. Plaintiff may file an amended complaint altering it solely for the purpose of seeking to allege a legally sufficient state law malicious prosecution claim against the Private Defendants no later than May 18, 2012.

SO ORDERED.

Dated: May 3, 2012



Lewis A. Kaplan
United States District Judge